

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0158-01
Bill No.: Perfected HB 55
Subject: Taxation and Revenue - General; Revenue Department
Type: Original
Date: February 19, 2013

Bill Summary: This proposal would authorize an amnesty from the assessment or payment of penalties, additional taxes, and interest on certain unpaid tax delinquencies.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	More than \$100,000	\$0	\$0
Total Estimated Net Effect on General Revenue Fund	More than \$100,000	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 16 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Conservation Commission	Unknown	\$0	\$0
Parks, and Soil and Water	Unknown	\$0	\$0
Highway	Unknown	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on FTE	0	0	0

☒ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 32.883, RSMo. - Tax Amnesty Program

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** assume this proposal would not result in additional costs or savings to their organization.

BAP officials stated that the proposal would create an amnesty from all accrued penalties and interest on unpaid taxes, if taxes are appropriately filed and paid during a period from August 1, 2013, to October 30, 2013. This proposal appears to be similar to the amnesty program in FY 2003.

SS:LR:OD

ASSUMPTION (continued)

BAP officials assume that \$75 million would be collected, including \$50 million already identified from Department of Revenue (DOR) investigations completed or in process. BAP officials stated that the \$50 million is part of the revenue base when the consensus revenue estimates are determined for FY 2014 and future years. BAP assumes the balance of \$25 million would be "new" revenues from previously unidentified sources.

BAP officials stated that their collection estimates are based on income and sales tax liabilities and noted that a small amount of additional funds may be collected if other taxes administered by DOR, such as tobacco taxes, are included in the amnesty. BAP officials assume that 84.2% of collections would be deposited in to the General Revenue Fund, based on the results of the amnesty program in FY 2003.

Further, BAP officials assume the proposed amnesty would persuade delinquent taxpayers to settle accounts in a more timely fashion than is typical. Based on data provided by DOR, BAP officials estimated 27% of liabilities collected are settled within nine months after being identified by DOR, with others taking 36 months or more to settle. BAP officials assume the amnesty program would bring all of these payments into the three-month amnesty window, which occurs about nine months after the end of tax year 2013. Thus, the amnesty would have a positive impact in FY 2014, and a negative impact on later years.

All funds other than revenues earmarked by the Constitution of Missouri would be deposited in the General Revenue Fund under this proposal. Some revenues normally earmarked for education would be deposited into the General Revenue Fund.

BAP officials assume this proposal would increase General Revenue Fund receipts by \$51.8 million in FY 2014, with impacts on Total State Revenue and later years as shown in the table below.

ASSUMPTION (continued)

BAP officials provided this table of estimated collections under the program:

<u>All funds</u>	<u>All years</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>Subsequent years</u>
Amnesty collections	\$75.0	\$75.0	\$0.0	\$0.0
Normal collections	<u>(\$50.0)</u>	<u>(\$13.6)</u>	<u>(\$22.8)</u>	<u>(\$13.6)</u>
Net increase	<u>\$25.0</u>	<u>\$61.4</u>	<u>(\$22.8)</u>	<u>(\$13.6)</u>

<u>General Revenue</u>				
<u>Fund</u>	<u>All years</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>Subsequent years</u>
Amnesty collections	\$63.2	\$63.2	\$0.0	\$0.0
Normal collections	<u>(\$42.1)</u>	<u>(\$11.4)</u>	<u>(\$19.2)</u>	<u>(\$11.5)</u>
Net increase	<u>\$21.1</u>	<u>\$51.8</u>	<u>(\$19.2)</u>	<u>(\$11.5)</u>

(Note - Numbers are in millions of dollars.)

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

ASSUMPTION (continued)

Officials from the **Joint Committee on Administrative Rules** assume that this proposal would not have a fiscal impact to their organization in excess of existing resources.

Officials from the **Office of the Attorney General** assume that any potential costs arising from this proposal could be absorbed with existing resources.

Officials from the **Department of Revenue (DOR)** assume this proposal would create a tax amnesty program.

The program would authorize an amnesty from penalties, additions to tax, and interest on taxes administered by the Department of Revenue (DOR), with respect to delinquent taxes due and owing as of December 31, 2012, and paid in full from August 1, 2013, to October 31, 2013. The amnesty would not extend to taxpayers who are a party to a pending criminal investigation, or pending civil or criminal litigation in any court of the United States or this state for nonpayment, delinquency, or fraud in relation to any state tax imposed by this state.

Upon written application by the taxpayer using forms prescribed by the Director of Revenue, and upon compliance with the provisions of this section, DOR would waive any applicable penalty, addition to tax, or interest. Further, DOR would not initiate any civil or criminal prosecution for any taxpayer for which the amnesty was granted.

Amnesty would only be granted to taxpayers who have applied for amnesty within the period indicated in the proposal, have filed a tax return for each taxable period for which amnesty is requested, have paid the entire balance due within sixty days of approval by DOR, and agree to comply with state tax laws for the next eight years from the date of the agreement.

Taxpayers granted amnesty under this section would be required to comply with the state's tax laws for eight years following the date of the amnesty agreement. If the taxpayer fails to comply with all of this state's tax laws at any time during the eight years following the date of the agreement, all penalties, additions to tax, and interest that were waived under the amnesty agreement would become due and owing immediately.

ASSUMPTION (continued)

If a taxpayer elects to participate in the amnesty program, that election would constitute an express and absolute relinquishment of all administrative and judicial rights of appeal. No tax payment received under this section would be eligible for refund or credit, and the amnesty program would not prohibit the Department of Revenue from adjusting a filer's tax return as a result of any state or federal audit.

All tax payments received as a result of the amnesty program established in this section, other than revenues earmarked by the Constitution of Missouri, would be deposited in the General Revenue Fund.

The Department could create rules or administrative guidelines to implement the provisions of this section. This section would become effective on July 1, 2013, and would expire on December 31, 2016.

Fiscal impact

Overall, DOR officials assume that a total of \$75 million (\$63 million General Revenue Fund) could be collected through the amnesty program, but a total of \$50 million (\$42 million General Revenue Fund) would have been previously identified by the department. DOR officials assume that an overwhelming majority of the \$50 million, plus interest and penalties could be collected without amnesty.

DOR officials assume this proposal could have a net positive impact in FY 2014 of \$51.8 million for the General Revenue Fund (GR) and \$61.4 million in Total State Revenue.

According to DOR officials, this program could increase state revenue in FY 2014. Because the legislation includes known tax liabilities, some portion of the increase would reflect an acceleration of the collection of liabilities that DOR would otherwise have collected after FY 2014. The program could reduce interest and penalty collections in FY 2015 and subsequent years and could have the same effect on local sales and use tax interest and penalties.

ASSUMPTION (continued)

Oversight is not able to determine the reasonableness of the DOR revenue estimates since we do not have access to comparable information for similar programs, nor are we able to review any of the supporting documentation for those estimates since that information is confidential under the DOR interpretation of state law.

Administrative impact

DOR officials assume they would be required to create a new amnesty form and notices to issue to taxpayers that detail the amount owed and the amount eligible to be waived under the amnesty provisions. Further, DOR officials assume DOR and OA - ITSD (DOR) would need to make programming changes to all DOR tax systems to identify eligible periods for amnesty and to re-impose penalty and interest if the taxpayer is not in compliance for eight years.

DOR officials provided the following estimate of the cost to implement the amnesty program.

Based on 2011 estimates, there are approximately 490,000 known taxpayers with individual income, corporate income, employer withholding, and sales tax debts which could be eligible for amnesty.

Postage

- * DOR officials would incur costs for postage, envelopes and printing of (490,000 x \$.525 = \$257,250).

Taxation Division Personnel

*	Overtime to review correspondence -	\$102,000
*	Overtime to review errors on returns -	\$74,460
*	Existing staff and temporary employees -	\$147,900
*	Customer contacts -	<u>\$30,600</u>
	Total	<u>\$354,960</u>

ASSUMPTION (continued)

Advertising

The department also recommends an advertising budget of at least \$400,000. Advertising the amnesty should enhance overall participation in the program. Advertising should also help ensure that individuals and businesses not already in contact with the department about their tax liabilities participate in the program.

Contracted Services Option

In the alternative, the state could contract with a private vendor to administer the amnesty, like several other states which have achieved very good results. Contracting with a vendor would avoid the direct costs to the department as noted above. Vendor payment could be based on the percentage of the debts collected.

Oversight assumes the cost to operate the amnesty program with DOR staff would be less than the cost to manage the program using private vendors. In either case, DOR employees and managers would be required to identify the delinquent accounts and approve the waivers of penalties, interest, and additional tax.

ASSUMPTION (continued)

Motor Vehicle Bureau

DOR officials noted there are currently 223,059 potential participants who have active delinquent motor vehicle and marine fees. Further, DOR officials assume the Department would send an amnesty eligibility notice to each of these taxpayers.

- * DOR officials would incur costs for postage, envelopes and printing (223,059 x \$.525 = \$117,106).
- * The bureau would need to develop procedures for the 2013 amnesty program (40 hours of overtime for Management Analyst Specialist I) at a cost of \$1,206 in FY 2014.
- * The DOR web site would need to be revised to include information about the amnesty program (10 hours of overtime for an Administrative Analyst I) at a cost of \$325 in FY 2014.
- * Amnesty eligibility notices would need to be developed for motor vehicle sales tax, repossession accounts, and marine sales tax (120 hours of overtime for a Management Analyst Specialist I) at a cost of \$3,618 in FY 14.

DOR officials assume the amnesty eligibility notice would allow for self certification that the applicant is not party to any pending criminal investigations nor to any pending civil or criminal litigation.

DOR officials assume that implementation of the amnesty program could result in additional phone call inquiries to the Department, which could result in additional FTE being requested.

DOR officials assume only 10% of potential participants, or 22,305 taxpayers, would participate in the tax amnesty program. In addition, DOR officials assume the Department would allow a participant to take the signed amnesty eligibility notice to a local license office and make the amnesty payment. Title penalties would then be waived in the TRIPS system. Allowing license offices to accept amnesty payments would reduce the workload in the central office from amnesty payments, and could reduce potential FTE requirements.

ASSUMPTION (continued)

IT impact

DOR officials provided an estimate of the IT cost to implement this proposal of \$103,602 based on 3,830 hours of programming time to make changes to DOR systems. The DOR response indicated that \$90,888 was for the General Revenue fund portion of the program, and **Oversight** assumes the balance was for the Highway Fund portion of the program.

In summary, the DOR response included costs as follows:

<u>Category</u>	<u>General Revenue Fund</u>	<u>Highway Fund</u>
Salaries	\$354,960	\$17,863
Benefits	\$180,124	\$0
Letters	\$12,250	\$5,576
Envelopes	\$19,600	\$8,922
Postage	\$225,400	\$102,608
Advertising	\$400,000	\$0
Programming	<u>\$90,888</u>	<u>\$12,712</u>
Total	<u>\$1,192,334</u>	<u>\$147,681</u>

Oversight assumes the amnesty program would be implemented as part of a broader upgrade of DOR collections and customer service programs. Accordingly, Oversight will indicate unknown costs in excess of \$100,000 in FY 2014 for the Department of Revenue to administer the amnesty program.

ASSUMPTION (continued)

Oversight assumes that in all cases, delinquent taxes collected would be significantly greater than the penalties, interest, and additions to tax waived.

Oversight will indicate additional revenues for the state General Revenue Fund in excess of \$100,000, in addition to the recovery of program costs, for FY 2014, FY 2015, and FY 2016. Oversight will indicate unknown positive fiscal impact for the Conservation Commission Fund and the Parks and Soils and Water Fund for FY 2014. Finally, Oversight assumes that revenues for the Highway Fund would exceed program costs by an unknown amount, and will indicate costs and revenues greater than \$100,00 for FY 2014.

Oversight notes that this proposal would require DOR to deposit all collections from the amnesty program, except for those which are earmarked by the Missouri Constitution, into the state General Revenue Fund. Therefore, taxes normally deposited to other (non-constitutional) state funds, such as the State School Moneys Fund, and for local governments may be deposited into the General Revenue Fund instead, if this proposal is enacted.

Amendment 1

This amendment would prohibit any future participation in an amnesty program by any taxpayer granted amnesty by this proposal, and it would make the provisions in the proposal severable.

Oversight assumes the amendment would not change the fiscal impact of the proposal.

<u>FISCAL IMPACT - State Government</u>	FY 2014	FY 2015	FY 2016
GENERAL REVENUE FUND			
<u>Additional revenue</u> - Department of Revenue - Tax amnesty program Section 32.383 RSMo	More than \$100,000	\$0	\$0
<u>Cost</u> - Department of Revenue - Tax amnesty program Section 32.383 RSMo	(More than \$100,000)	\$0	\$0
<u>Revenue reduction</u> - Department of Revenue - Interest, penalties, and additions to tax waived. Section 32.383 RSMo	(Unknown)	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	More than <u>\$100,000</u>	<u>\$0</u>	<u>\$0</u>
CONSERVATION COMMISSION FUND			
<u>Additional Revenue</u> - Tax amnesty program Section 32.383 RSMo	Unknown	\$0	\$0
<u>Revenue reduction</u> - interest, penalties, and additions to tax waived. Section 32.383 RSMo	(Unknown)	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	<u>Unknown</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - State Government
 (continued)

FY 2014

FY 2015

FY 2016

**PARKS, AND SOIL AND WATER
 FUND**

Additional Revenue - Tax amnesty
 program

Section 32.383 RSMo

Unknown

\$0

\$0

Revenue reduction - Interest, penalties,
 and additions to tax waived.

Section 32.383 RSMo

(Unknown)

\$0

\$0

**ESTIMATED NET EFFECT ON
 PARKS, AND SOIL AND WATER
 FUND**

Unknown

\$0

\$0

HIGHWAY FUND

Additional revenue - Department of
 Revenue - Tax amnesty program

Section 32.383 RSMo

More than
 \$100,000

\$0

\$0

Cost - Department of Revenue - Tax
 amnesty program

Section 32.383 RSMo

(More than
 \$100,000)

\$0

\$0

Revenue reduction - Department of
 Revenue - Interest, penalties, and
 additions to tax waived.

Section 32.383 RSMo

(Unknown)

\$0

\$0

**ESTIMATED NET EFFECT IN
 HIGHWAY FUND**

Unknown

\$0

\$0

FISCAL IMPACT - Local Government

FY 2014

FY 2015

FY 2016

\$0

\$0

\$0

FISCAL IMPACT - Small Business

This proposal would have a direct impact to a small business to the extent the small business had an unpaid tax liability and took advantage of the amnesty provisions in this legislation.

FISCAL DESCRIPTION

This proposal would authorize an amnesty from the assessment or payment of penalties, additions to tax, and interest on delinquencies of unpaid taxes administered by the Department of Revenue for periods prior to December 31, 2012. A taxpayer would be required to apply for amnesty; pay the unpaid taxes in full from August 1, 2013 to October 31, 2013; and agree to comply with state tax laws for the next eight years from the date of the agreement.

All collections from the amnesty program would be deposited into the General Revenue Fund unless otherwise earmarked by the Missouri Constitution. These provisions would become effective July 1, 2013, and would expire on December 31, 2016.

The proposal includes an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Office of the Attorney General
Joint Committee on Administrative Rules
Office of Administration - Division of Budget and Planning
Department of Revenue



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